

I certify that the attached is a true and
correct copy of HB 869, which
was filed of record on FEB 03 1989

and referred to the committee on:

Urban Affairs

Betty Murray

Chief Clerk of the House

1989 FEB 23 PM 1:58

HOUSE OF REPRESENTATIVES

FILED FEB 03 1989

By Taller

H. B. No. 869

A BILL TO BE ENTITLED

AN ACT

relating to polygraph examinations of police officers and fire
fighters in certain cities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 143.124, Local Government Code, is
amended to read as follows:

Sec. 143.124. POLYGRAPH EXAMINATIONS. [(a)] A fire fighter
or police officer employed by the municipality may not be suspended
or terminated or subjected to any other form of discrimination by
the municipality because of the refusal of the officer to take a
polygraph examination [required--to---submit---to---a---polygraph
examination--as--part--of--an--internal--investigation--regarding--the
conduct--of--the--fire--fighter--or--police--officer--unless--

[(1) --the complainant submits to and passes a polygraph
examination; or

[(2) --the fire fighter or police officer is ordered to
take an examination under Subsection (c)].

[(b) --Subsection (a) (1) does not apply if the complainant is
physically or mentally incapable of being polygraphed;

[(c) --For the purposes of this section, a person passes a
polygraph examination if, in the opinion of the polygraph examiner,
no deception is indicated regarding matters critical to the subject
matter under investigation;

[(d) --The results of a polygraph examination that relate to

1 the--complaint--under--investigation--are--not--admissible---in---a
2 proceeding-before-the-commission-or-a-hearing-examiner-

3 [(e)--The--department-head-may-order-a-fire-fighter-or-police
4 officer-to-submit-to-a-polygraph-examination-if-the-department-head
5 considers-the-circumstances-to-be-extraordinary-and-the--department
6 head--believes--that--the--integrity--of--a--fire-fighter-or-police
7 officer-or-the-department-is-in-question-]

8 SECTION 2. This Act supersedes the amendment of Section
9 143.124, Local Government Code, by the Act of the 71st Legislature,
10 Regular Session, 1989, conforming the Local Government Code to
11 certain Acts of the 70th Legislature and nonsubstantively codifying
12 in that code certain related statutes.

13 SECTION 3. Chapter 312, Acts of the 70th Legislature,
14 Regular Session, 1987, is repealed.

15 SECTION 4. The importance of this legislation and the
16 crowded condition of the calendars in both houses create an
17 emergency and an imperative public necessity that the
18 constitutional rule requiring bills to be read on three several
19 days in each house be suspended, and this rule is hereby suspended,
20 and that this Act take effect and be in force from and after its
21 passage, and it is so enacted.

HOUSE COMMITTEE REPORT

1st. Printing

89 APR -5 AM 10:37
HOUSE OF REPRESENTATIVES

By Tallas

H.B. No. 869

Substitute the following for H.B. No. 869:

By Polumbo

C.S.H.B. No. 869

A BILL TO BE ENTITLED

AN ACT

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 143.124, Local Government Code, is amended to read as follows:

Sec. 143.124. POLYGRAPH EXAMINATIONS. [(a)] A fire fighter or police officer employed by the municipality [may] shall not be suspended or terminated or subjected to any other form of discrimination by the municipality because of the refusal of the fire fighter or police officer to take a polygraph examination [required-to-submit-to--a--polygraph--examination--as--part--of--an internal-investigation-regarding-the-conduct-of-the-fire-fighter-or police-officer-unless-

[(1) --the-complainant-submits-to-and-passes-a-polygraph examination;-or

[(2) --the--fire-fighter-or-police-officer-is-ordered-to take-an-examination-under-Subsection-(e)] .

[(b) --Subsection-(a)(1)-does-not-apply-if-the-complainant--is physically-or-mentally-incapable-of-being-polygraphed-

[(c) --For--the--purposes--of--this-section,-a-person-passes-a polygraph-examination-if,-in-the-opinion-of-the-polygraph-examiner, no-deception-is-indicated-regarding-matters-critical-to-the-subject matter-under-investigation-

1 [(d) -- The results of a polygraph examination that relate to
2 the complaint under investigation are not admissible in a
3 proceeding before the commission or a hearing examiner.

4 [(e) -- The department head may order a fire fighter or police
5 officer to submit to a polygraph examination if the department head
6 considers the circumstances to be extraordinary and the department
7 head believes that the integrity of a fire fighter or police
8 officer or the department is in question.]

9 SECTION 2. This Act supersedes the amendment of Section
10 143.124, Local Government Code, by the Act of the 71st Legislature,
11 Regular Session, 1989, conforming the Local Government Code to
12 certain Acts of the 70th Legislature and nonsubstantively codifying
13 in that code certain related statutes.

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17 crowded condition of the calendars in both houses create an
18 emergency and an imperative public necessity that the
19 constitutional rule requiring bills to be read on three several
20 days in each house be suspended, and this rule is hereby suspended,
21 and that this Act take effect and be in force from and after its
22 passage, and it is so enacted.

COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

4/3/89
(date)

Sir:

We, your COMMITTEE ON URBAN AFFAIRS,

to whom was referred H. B. 869 have had the same under consideration and beg to report
(measure)

back with the recommendation that it

() do pass, without amendment.

() do pass, with amendment(s).

(X) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. (X) yes () no

An actuarial analysis was requested. () yes (X) no

An author's fiscal statement was requested. () yes (X) no

A criminal justice policy impact statement was prepared. () yes (X) no

A water development policy impact statement was requested. () yes (X) no

() The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars for placement on the () Local, () Consent, or () Resolutions Calendar.

This measure () proposes new law. (X) amends existing law.

House Sponsor of Senate Measure _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Pierce, Ch.	X			
Moreno, P., V.C.				X
Beauchamp	X			
Blair				X
Edwards	X			
Haggerty	X			
Hunter	X			
Lucio				X
Park				X
Polumbo	X			
Shea	X			

Total

7

aye

0

nay

0

present, not voting

4

absent

Gib Lewis
CHAIRMAN

Deborah K. Wall
COMMITTEE COORDINATOR

COMMITTEE ON URBAN AFFAIRS

H.B. 869 by Tallas
C.S.H.B. 869 by Polumbo

BILL ANALYSIS

Background Information

Section 143.124, Local Government Code, regulates polygraph examinations of fire fighters and police officers in cities of 1.5 million or more. It states that a fire fighter or police officer may not be required to take a polygraph as part of a misconduct investigation unless the complainant submits to and passes a polygraph, or unless extraordinary circumstances exist. A person is not required to submit to a polygraph if he is physically incapable of doing so. A person is considered to have passed the test if no deception is indicated on matters critical to the investigation. Polygraph results relating to a complaint under investigation are not admissible before a hearing examiner.

S.B. 277, 70th Regular Session, passed too late to be included in the Local Government Code, provided further that the fire fighter or police officer under investigation may request the results of the complainant's polygraph test, and that the city must provide such within 48 hours. The police officer or fire fighter may not then be required to take a polygraph until he has seen the complainant's results.

Purpose

This bill would delete all of the above mentioned language, and substitute a provision that no fire fighter or police officer in a city of 1.5 million or more shall be suspended, terminated, or subjected to any other form of discrimination by the municipality because of the refusal to take a polygraph examination.

Section-by-Section Analysis

Section 1. Amends Section 143.124, Local Government Code, to say that a fire fighter or police officer may not be suspended, terminated, or subjected to any other form of discrimination by the municipality because of refusal to take a polygraph examination.

Section 2. Codification provision.

Section 3. Chapter 312, Acts of the 70th Legislature, Regular Session, 1987, requiring provision of a complainant's polygraph results to an officer under investigation, is repealed.

Section 4. Emergency clause.

Comparison of Original to Substitute

The substitute reads "shall not" instead of "may not" found in the original bill and makes it clear that this provision applies to fire fighters as well as peace officers in a city of 1.5 million or more.

Rulemaking Authority

It is the opinion of this committee that this bill does not delegate any rulemaking authority to any state agency, officer, department, or institution.

Summary of Committee Action

H.B. 869 was considered in a public hearing on March 13, 1989. Testifying for the bill were Mark Clark, representing the Houston Police Officers Association, and T.A. Britt, representing the Houston Police Patrolmen's Union. Not testifying, but appearing in support of the bill were Ron DeLord, representing the Combined Law Enforcement Associations of Texas, Matt Herden, representing the San Antonio Police Officers Association, Donald Jeter, representing the Longview Police Officers Association, Michael Higgins and Mike Hines, representing the Texas State Association of Fire Fighters, Jerry Gherman and Ed Willborn, representing the San Antonio Professional Fire Fighters, and Wes Warnke, representing the Houston Professional Fire Fighters Association. Testifying against the bill were Joe L. Breshears, representing Houston Chief of Police Lee P. Brown, Eric Holden and Bobby B. Jones, representing the Texas Association of Polygraph Examiners, and Michael Courville, representing the Texas Police Chiefs Association. Testifying as a resource witness was Bryan Perot of the Polygraph Examiners Board. The bill was referred to a subcommittee which held a formal meeting on March 28, 1989. The subcommittee adopted a substitute and recommended it favorably to the full committee. On April 3, 1989, the committee considered H.B. 869 on subcommittee report and adopted the substitute recommended by the subcommittee. The motion to report C.S.H.B. 869 carried with a vote of 7 Ayes, 0 Nays, 0 PNV, and 4 Absent.

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LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 24, 1989

TO: Honorable George Pierce, Chair
Committee on Urban Affairs
House of Representatives
Austin, Texas

In Re: House Bill No. 869
By: Tallas

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 869 (relating to polygraph examinations of police officers and fire fighters in certain cities) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Source: LBB Staff: JO, JWH, AL, LV

ADOPTED

APR 27 1989

Betty Murray
Chief Clerk
House of Representatives

By Tallas

H.B. 869

Substitute the following for H.B. No. 869

By *Reid*

C.S.H.B. 869

POLUMBO

A BILL TO BE ENTITLED

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~~(1)--the-complainant-submits-to-and-passes-a-polygraph examination;-or~~

~~(2)--the-fire-fighter-or-police-officer-is-ordered--to take-an-examination-under-Subsection-(c)] .~~

~~(b)--Subsection--(a)(1)--does-not-apply-if-the-complainant-is physically-or-mentally-incapable-of-being-polygraphed;~~

~~(c)--For-the-purposes-of-this-section;-a--person--passes--a polygraph-examination-if,-in-the-opinion-of-the-polygraph-examiner, no-deception-is-indicated-regarding-matters-critical-to-the-subject matter-under-investigation;~~

~~(d)--The--results--of-a-polygraph-examination-that-relate-to~~

1 the--complaint--under--investigation--are--not--admissible---in---a
2 proceeding-before-the-commission-or-a-hearing-examiner.

3 [(e)--The--department-head-may-order-a-fire-fighter-or-police
4 officer-to-submit-to-a-polygraph-examination-if-the-department-head
5 considers-the-circumstances-to-be-extraordinary-and-the--department
6 head--believes--that--the--integrity--of--a--fire-fighter-or-police
7 officer-or-the-department-is-in-question.]

8 SECTION 2. This Act supersedes the amendment of Section
9 143.124, Local Government Code, ^(S. B. No. 1111) by the Act of the 71st Legislature,
10 Regular Session, 1989, conforming the Local Government Code to
11 certain Acts of the 70th Legislature and nonsubstantively codifying
12 in that code certain related statutes.

13 SECTION 3. Chapter 312, Acts of the 70th Legislature,
14 Regular Session, 1987, is repealed.

15 SECTION 4. The importance of this legislation and the
16 crowded condition of the calendars in both houses create an
17 emergency and an imperative public necessity that the
18 constitutional rule requiring bills to be read on three several
19 days in each house be suspended, and this rule is hereby suspended,
20 and that this Act take effect and be in force from and after its
21 passage, and it is so enacted.

68 APR 20 PM 2:39

A. BECKETT, ATTORNEY

ENGROSSED
SECOND READING

By Tallas

H.B. No. 869

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[(1) --the-complainant-submits-to-and-passes-a-polygraph examination, or

[(2) --the--fire-fighter-or-police-officer-is-ordered-to take-an-examination-under-Subsection-(c)].

[(b) --Subsection-(a) (1) does-not-apply-if-the-complainant--is physically-or-mentally-incapable-of-being-polygraphed-

[(c) --For--the--purposes--of--this-section, a-person-passes-a polygraph-examination-if, in-the-opinion-of-the-polygraph-examiner, no-deception-is-indicated-regarding-matters-critical-to-the-subject matter-under-investigation-

1 [(d) --The results of a polygraph examination that relate to
2 the complaint under investigation are not admissible in a
3 proceeding before the commission or a hearing examiner.

4 [(e) --The department head may order a fire fighter or police
5 officer to submit to a polygraph examination if the department head
6 considers the circumstances to be extraordinary and the department
7 head believes that the integrity of a fire fighter or police
8 officer or the department is in question.]

9 SECTION 2. This Act supersedes the amendment of Section
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11 Legislature, Regular Session, 1989, conforming the Local Government
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HOUSE ENGROSSMENT

SECTION - 1 PREC 02

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~~[(1)--the-complainant-submits-to-and-passes-a-polygraph examination;-or~~

~~[(2)--the--fire-fighter-or-police-officer-is-ordered-to take-an-examination-under-Subsection-(c)].~~

~~[(b)--Subsection-(a)-(1)-does-not-apply-if-the-complainant--is physically-or-mentally-incapable-of-being-polygraphed-~~

~~[(c)--For--the--purposes--of--this-section,-a-person-passes-a polygraph-examination-if,-in-the-opinion-of-the-polygraph-examiner,- no-deception-is-indicated-regarding-matters-critical-to-the-subject matter-under-investigation-~~

1 [(d) --The results of a polygraph examination that relate to
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8 officer or the department is in question.]

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LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 24, 1989

TO: Honorable George Pierce, Chair
Committee on Urban Affairs
House of Representatives
Austin, Texas

In Re: House Bill No. 869
By: Tallas

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 869 (relating to polygraph examinations of police officers and fire fighters in certain cities) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Source: LBB Staff: JO, JWH, AL, LV

By: Tallas (Senate Sponsor - Whitmire) H.B. No. 869
(In the Senate - Received from the House May 3, 1989;
May 3, 1989, read first time and referred to Committee on
Intergovernmental Relations; May 17, 1989, reported adversely, with
favorable Committee Substitute by the following vote: Yeas 9, Nays
0; May 17, 1989, sent to printer.)

COMMITTEE VOTE

	Yea	Nay	PNV	Absent
Parmer	x			
Leedom	x			
Armbrister	x			
Barrientos	x			
Brown			x	
Carriker	x			
Haley	x			
Ratliff	x			
Tejeda				x
Washington	x			
Whitmire	x			

COMMITTEE SUBSTITUTE FOR H.B. No. 869

By: Whitmire

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AN ACT

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fighters in certain cities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 143.124, Local Government Code, as
amended by Senate Bill 220, Acts of the 71st Legislature, Regular
Session, 1989, is amended to read as follows:

Sec. 143.124. POLYGRAPH EXAMINATIONS. [{a}] A fire fighter
or police officer employed by the municipality may not be suspended
or terminated or subjected to any other form of discrimination by
the municipality because of the refusal of the fire fighter or
police officer to take a polygraph examination. [required-to-submit
to--a--polygraph--examination--as-part-of-an-internal-investigation
regarding-the-conduct-of-the-fire-fighter-or-police-officer-unless-

[{1}--the-complainant-submits-to-and-passes-a-polygraph
examination-and,--if-applicable,--the-department--has--complied--with
Subsection-(e),--or

[{2}--the--fire-fighter-or-police-officer-is-ordered-to
take-an-examination-under-Subsection-(f)-

[{b}--Subsection-(a){1}-does-not-apply-if-the-complainant--is
physically-or-mentally-incapable-of-being-polygraphed-

[{c}--The--department-shall,--on-the-written-request-of-a-fire
fighter-or-police-officer,--provide-to-the-fire--fighter--or--police
officer--the--complainant's-polygraph-examination-results-within-48
hours-after-the-request-

[{d}--For-the-purposes-of-this-section,--a--person--passes--a
polygraph-examination-if,--in-the-opinion-of-the-polygraph-examiner,
no-deception-is-indicated-regarding-matters-critical-to-the-subject
matter-under-investigation-

[{e}--The--results--of-a-polygraph-examination-that-relate-to
the--complaint--under--investigation--are--not--admissible---in---a
proceeding-before-the-commission-or-a-hearing-examiner-

[{f}--The--department-head-may-order-a-fire-fighter-or-police
officer-to-submit-to-a-polygraph-examination-if-the-department-head
considers-the-circumstances-to-be-extraordinary-and-the--department
head--believes--that--the--integrity--of--a--fire-fighter-or-police
officer-or-the-department-is-in-question-]

SECTION 2. The importance of this legislation and the
crowded condition of the calendars in both houses create an
emergency and an imperative public necessity that the
constitutional rule requiring bills to be read on three several
days in each house be suspended, and this rule is hereby suspended,
and that this Act take effect and be in force from and after its
passage, and it is so enacted.

* * * * *

Austin, Texas
May 17, 1989

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on Intergovernmental Relations to which was referred H.B. No. 869, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that the Committee Substitute adopted in lieu thereof do pass and be printed.

Parmer, Chairman

SENATE FAVORABLY AS SUBSTITUTED COMMITTEE REPORT

Lt. Governor William P. Hobby
President of the Senate

5/17/89
(date)

Sir:

We, your Committee on INTERGOVERNMENTAL RELATIONS to which was referred
HB 869 by Tallas have on May 16, 1989, had the same
(measure) (sponsor) (hearing date)

under consideration and I am instructed to report it back with the recommendation (s) that it

- (☒) do pass as substituted, and be printed
(☒) the caption remained the same as original measure
() the caption changed with adoption of the substitute

() do pass as substituted, and be ordered not printed

(☒) and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. (☒) yes () no

A revised fiscal note was requested. () yes (☒) no

An actuarial analysis was requested. () yes (☒) no

Considered by subcommittee. () yes (☒) no

Senate Sponsor of House Measure Whitmire

The measure was reported from Committee by the following vote:

	YEA	NAY	PNV	ABSENT
Parmer, Chairman	<input checked="" type="checkbox"/>			
Leedom, Vice Chairman	<input checked="" type="checkbox"/>			
Armbrister	<input checked="" type="checkbox"/>			
Barrientos	<input checked="" type="checkbox"/>			
Brown			<input checked="" type="checkbox"/>	
Carriker	<input checked="" type="checkbox"/>			
Haley	<input checked="" type="checkbox"/>			
Ratliff	<input checked="" type="checkbox"/>			
Tejeda				<input checked="" type="checkbox"/>
Washington	<input checked="" type="checkbox"/>			
Whitmire	<input checked="" type="checkbox"/>			
TOTAL VOTES	9	0	1	1

K-b by H-y
COMMITTEE CLERK

Hugh Parmer
CHAIRMAN

Paper clip the original and one copy of this form along with TWO copies of the Committee Substitute to the original bill and retain one copy for Reporting Committee file.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 8, 1989

MAY 9 REC'D

TO: Honorable Hugh Parmer, Chairman
Committee on Intergovernmental Relations
Senate Chamber
Austin, Texas

In Re: House Bill No. 869,
as engrossed
By: Tallas

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 869, as engrossed (relating to polygraph examinations of police officers and fire fighters in certain cities) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Source: LBB Staff: JO, JWH, AL, CKM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 24, 1989

TO: Honorable George Pierce, Chair
Committee on Urban Affairs
House of Representatives
Austin, Texas

In Re: House Bill No. 869
By: Tallas

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 869 (relating to polygraph examinations of police officers and fire fighters in certain cities) this office has determined the following:

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Source: LBB Staff: JO, JWH, AL, LV

REQUEST FOR LOCAL & UNCONTESTED CALENDAR
PLACEMENT

Hon. Bill Sims, Chairman
Administration Committee

Sir:

Notice is hereby given that (CS) HB 869, by: Tallas/Whitnir

was heard by the Committee on Intergov. Relations on May 16, 1989,
and reported out with the recommendation that it be placed on the Local and Uncontested
Calendar.

K. H. y
Clerk of the reporting committee

IMPORTANT: A COPY OF THIS FORM MUST BE ATTACHED TO A PRINTED COPY OF
THE BILL OR RESOLUTION, WHICH ALONG WITH 14 ADDITIONAL COPIES OF THE
BILL OR RESOLUTION SHOULD BE DELIVERED TO THE OFFICE OF THE
COMMITTEE ON ADMINISTRATION, ROOM 419. PLEASE CALL 3-0350 IF YOU HAVE
ANY QUESTIONS. DEADLINE FOR SUBMITTING BILLS FOR THE LOCAL CALENDAR
IS 5:00 P.M. FRIDAY.

ADOPTED

MAY 23 1989

Boatright
Governor of the State

By Tallas

H.B. No. 869

Substitute the following for H.B. No. 869:

By Whitnire

C.S.H.B. No. 869

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AN ACT

relating to polygraph examinations of police officers and fire fighters in certain cities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 143.124, Local Government Code, as amended by Senate Bill 220, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 143.124. POLYGRAPH EXAMINATIONS. [(a)] A fire fighter or police officer employed by the municipality may not be suspended or terminated or subjected to any other form of discrimination by the municipality because of the refusal of the fire fighter or police officer to take a polygraph examination. [required-to-submit to--a--polygraph--examination--as-part-of-an-internal-investigation regarding-the-conduct-of-the-fire-fighter-or-police-officer-unless-

[(1) --the-complainant-submits-to-and-passes-a-polygraph examination-and, if-applicable, the-department--has--complied--with Subsection-(e);-or

[(2) --the--fire-fighter-or-police-officer-is-ordered-to take-an-examination-under-Subsection-(f)-

[(b) --Subsection-(a) (1) -does-not-apply-if-the-complainant--is physically-or-mentally-incapable-of-being-polygraphed-

[(c) --The--department-shall, on-the-written-request-of-a-fire fighter-or-police-officer, provide-to-the-fire--fighter--or--police officer--the--complainant's-polygraph-examination-results-within-48

1 hours-after-the-request.

2 [(d) -- For the purposes of this section, -- a -- person -- passes -- a
3 polygraph examination if, -- in the opinion of the polygraph examiner,
4 no deception is indicated regarding matters critical to the subject
5 matter under investigation.

6 [(e) -- The -- results -- of a polygraph examination that relate to
7 the -- complaint -- under -- investigation -- are -- not -- admissible -- in -- a
8 proceeding before the commission or a hearing examiner.

9 [(f) -- The -- department head may order a fire fighter or police
10 officer to submit to a polygraph examination if the department head
11 considers the circumstances to be extraordinary and the -- department
12 head -- believes -- that -- the -- integrity -- of -- a -- fire fighter or police
13 officer or the department is in question.]

14 SECTION 2. The importance of this legislation and the
15 crowded condition of the calendars in both houses create an
16 emergency and an imperative public necessity that the
17 constitutional rule requiring bills to be read on three several
18 days in each house be suspended, and this rule is hereby suspended,
19 and that this Act take effect and be in force from and after its
20 passage, and it is so enacted.

SENATE AMENDMENTS

2nd Printing

HOUSE OF REPRESENTATIVES
83 MAY 23 PM 5:00

By Tallas

H.B. No. 869

A BILL TO BE ENTITLED

AN ACT

relating to polygraph examinations of police officers and fire fighters in certain cities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 143.124, Local Government Code, is amended to read as follows:

Sec. 143.124. POLYGRAPH EXAMINATIONS. [(a)] A fire fighter or police officer employed by the municipality shall [may] not be suspended or terminated or subjected to any other form of discrimination by the municipality because of the refusal of the fire fighter or police officer to take a polygraph examination [required-to-submit-to--a--polygraph--examination--as--part--of--an internal-investigation-regarding-the-conduct-of-the-fire-fighter-or police-officer-unless-

[(1)--the-complainant-submits-to-and-passes-a-polygraph examination;-or

[(2)--the--fire-fighter-or-police-officer-is-ordered-to take-an-examination-under-Subsection-(e)].

[(b)--Subsection-(a)(1)-does-not-apply-if-the-complainant--is physically-or-mentally-incapable-of-being-polygraphed-

[(c)--For--the--purposes--of--this-section,-a-person-passes-a polygraph-examination-if,-in-the-opinion-of-the-polygraph-examiner, no-deception-is-indicated-regarding-matters-critical-to-the-subject matter-under-investigation-

1 [(d) --The results of a polygraph examination that relate to
2 the complaint under investigation are not admissible in a
3 proceeding before the commission or a hearing examiner.

4 [(e) --The department head may order a fire fighter or police
5 officer to submit to a polygraph examination if the department head
6 considers the circumstances to be extraordinary and the department
7 head believes that the integrity of a fire fighter or police
8 officer or the department is in question.]

9 SECTION 2. This Act supersedes the amendment of Section
10 143.124, Local Government Code, by S.B. No. 220, Acts of the 71st
11 Legislature, Regular Session, 1989, conforming the Local Government
12 Code to certain Acts of the 70th Legislature and nonsubstantively
13 codifying in that code certain related statutes.

14 SECTION 3. Chapter 312, Acts of the 70th Legislature,
15 Regular Session, 1987, is repealed.

16 SECTION 4. The importance of this legislation and the
17 crowded condition of the calendars in both houses create an
18 emergency and an imperative public necessity that the
19 constitutional rule requiring bills to be read on three several
20 days in each house be suspended, and this rule is hereby suspended,
21 and that this Act take effect and be in force from and after its
22 passage, and it is so enacted.

ADOPTED

MAY 23 1989

Butterfield
Secretary of the House

By Tallas

H.B. No. 869

Substitute the following for H.B. No. 869:

By Whitnire

C.S.H.B. No. 869

A BILL TO BE ENTITLED

AN ACT

relating to polygraph examinations of police officers and fire fighters in certain cities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 143.124, Local Government Code, as amended by Senate Bill 220, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

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~~[(1)--the-complainant-submits-to-and-passes-a-polygraph examination-and,--if-applicable,--the-department--has--complied--with Subsection-(e),--or~~

~~[(2)--the--fire-fighter-or-police-officer-is-ordered-to take-an-examination-under-Subsection-(f)-~~

~~[(b)--Subsection-(a)(1)-does-not-apply-if-the-complainant--is physically-or-mentally-incapable-of-being-polygraphed-~~

~~[(c)--The--department-shall,--on-the-written-request-of-a-fire fighter-or-police-officer,--provide-to-the-fire--fighter--or--police officer--the--complainant's-polygraph-examination-results-within-48~~

1 hours-after-the-request-

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3 polygraph examination if, -- in the opinion of the polygraph examiner,
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7 the -- complaint -- under -- investigation -- are -- not -- admissible --- in --- a
8 proceeding before the commission or a hearing examiner.

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10 officer to submit to a polygraph examination if the department head
11 considers the circumstances to be extraordinary and the -- department
12 head -- believes -- that -- the -- integrity -- of -- a -- fire fighter or police
13 officer or the department is in question.]

14 SECTION 2. The importance of this legislation and the
15 crowded condition of the calendars in both houses create an
16 emergency and an imperative public necessity that the
17 constitutional rule requiring bills to be read on three several
18 days in each house be suspended, and this rule is hereby suspended,
19 and that this Act take effect and be in force from and after its
20 passage, and it is so enacted.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 8, 1989

MAY 9 REC'D

TO: Honorable Hugh Parmer, Chairman
Committee on Intergovernmental Relations
Senate Chamber
Austin, Texas

In Re: House Bill No. 869,
as engrossed
By: Tallas

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 869, as engrossed (relating to polygraph examinations of police officers and fire fighters in certain cities) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Source: LBB Staff: JO, JWH, AL, CKM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 24, 1989

TO: Honorable George Pierce, Chair
Committee on Urban Affairs
House of Representatives
Austin, Texas

In Re: House Bill No. 869
By: Tallas

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 869 (relating to polygraph examinations of police officers and fire fighters in certain cities) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Source: LBB Staff: JO, JWH, AL, LV

F
ENROLLED

H.B. No. 869

1 AN ACT

2 relating to polygraph examinations of police officers and fire
3 fighters in certain cities.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 143.124, Local Government Code, as
6 amended by Senate Bill 220, Acts of the 71st Legislature, Regular
7 Session, 1989, is amended to read as follows:

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9 or police officer employed by the municipality may not be suspended
10 or terminated or subjected to any other form of discrimination by
11 the municipality because of the refusal of the fire fighter or
12 police officer to take a polygraph examination. [required-to-submit
13 te--a--polygraph--examination--as-part-of-an-internal-investigation
14 regarding-the-conduct-of-the-fire-fighter-or-police-officer-unless-

15 [(1)--the-complainant-submits-to-and-passes-a-polygraph
16 examination-and,-if-applicable,-the-department--has--complied--with
17 Subsection-(e)-or

18 [(2)--the--fire-fighter-or-police-officer-is-ordered-to
19 take-an-examination-under-Subsection-(f)-

20 [(b)--Subsection-(a)-(1)-does-not-apply-if-the-complainant--is
21 physically-or-mentally-incapable-of-being-polygraphed-

22 [(c)--The--department-shall,-on-the-written-request-of-a-fire
23 fighter-or-police-officer,-provide-to-the-fire--fighter--or--police
24 officer--the--complainant's-polygraph-examination-results-within-48

1 hours-after-the-request-

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14 SECTION 2. The importance of this legislation and the
15 crowded condition of the calendars in both houses create an
16 emergency and an imperative public necessity that the
17 constitutional rule requiring bills to be read on three several
18 days in each house be suspended, and this rule is hereby suspended,
19 and that this Act take effect and be in force from and after its
20 passage, and it is so enacted.

H.B. No. 869

President of the Senate

Speaker of the House

I certify that H.B. No. 869 was passed by the House on May 1, 1989, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 869 on May 24, 1989, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 869 was passed by the Senate, with amendments, on May 23, 1989, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

President of the Senate

Speaker of the House

I certify that H.B. No. 869[✓] was passed by the House on
(1)

May 1[✓], 1989, by a non-record vote;
(2)

and that the House concurred in Senate amendments to H.B. No. 869[✓]
on May 24[✓], 1989, by a non-record vote.
(3)

Chief Clerk of the House

**** Preparation: 'A;CT64;

I certify that H.B. No. 869[✓] was passed by the Senate, with
(1)

amendments, on May 23[✓], 1989, by the
(2)

following vote: Yeas 31[✓], Nays 0[✓]
(3) (4)

Secretary of the Senate

APPROVED:

Date

Governor

**** Preparation: 'A;CT14;

H. B. No. 869

By Jaller

A BILL TO BE ENTITLED
AN ACT

relating to polygraph examinations of police officers and fire fighters
in certain cities.

FEB 3 1989

1. Filed with the Chief Clerk.

FEB 22 1989

2. Read first time and Referred to Committee on

Urban Affairs

APR 3 1989

3. Reported favorably (as amended) and sent to Printer at 4:35 pm
(as substituted) APR 4 1989

APR 5 1989

4. Printed and distributed at 8:37 am

APR 7 1989

5. Sent to Committee on Calendars at 2:52 PM

APR 27 1989

6. Read second time as subs. (amended); passed to third reading (failed) by (Non-Record Vote)
(Record Vote of _____ years, _____ nays, _____ present, not voting).

7. Motion to reconsider and table the vote by which H.B. _____ was ordered
engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ years,
_____ nays, and _____ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed
to suspend) by a four-fifths vote of _____ years, _____ nays, and _____
present, not voting.

MAY 1 1989

9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote of _____ years, _____ nays, _____ present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. _____ was finally passed
prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ years, _____
nays, and _____ present, not voting).

MAY 1 1989

12. Ordered Engrossed at 4:01 pm

MAY 01 1989

13. Engrossed.

MAY 01 1989

14. Returned to Chief Clerk at 8:02 pm

MAY 2 1989

15. Sent to Senate.

Betty Murray
Chief Clerk of the House

MAY 2 1989

16. Received from the House

MAY 3 1989

17. Read, referred to Committee on INTERGOVERNMENTAL RELATIONS

18. Reported favorably

MAY 17 1989

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read
first time.

20. Ordered not printed.

21. Regular order of business suspended by
(a viva voce vote.)
(_____ years, _____ nays.)

22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.
MAY 23 1989 *Laid before Senate*
23. Read second time _____ passed to third reading by:
(a viva voce vote.)
(_____ yeas, _____ nays.)

24. Caption ordered amended to conform to body of bill.
MAY 23 1989
25. Senate and Constitutional 3-Day Rules suspended by vote of 50 yeas,
_____ nays to place bill on third reading and final passage.

MAY 23 1989
26. Read third time and passed by
(a viva voce vote.)
(31 yeas, 0 nays.)

OTHER ACTION: OTHER ACTION:

Betty King
Secretary of the Senate

May 23, 1989
27. Returned to the House.

MAY 23 1989
28. Received from the Senate (~~with amendments~~)
(as substituted.)

MAY 24 1989
29. House (Concurred) (~~Refused to Concur~~) in Senate (~~Amendments~~) by (Non-Record)
(Substitute) (Vote) (Record Vote of _____ yeas, _____ nays, _____ present,
not voting).

30. Conference Committee Ordered.

31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record
Vote of _____ yeas, _____ nays, and _____ present, not voting).

MAY 24 1989
32. Ordered Enrolled at 6:57 pm

89 MAY -1 PM 6:02
HOUSE OF REPRESENTATIVES

89 MAY 23 PM 5:08
HOUSE OF REPRESENTATIVES

89 APR 28 PM 2:39
HOUSE OF REPRESENTATIVES

89 APR -5 AM 8:37
HOUSE OF REPRESENTATIVES

IGR